

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

ANNA MARANTO,
45 Ashworth Court
Amherst, New York 14228

Plaintiff,

SUMMONS

v.

Index No. 2017-_____

FISHER-PRICE, INC.
636 Girard Avenue
East Aurora, New York 14052

MATTEL, INC.
333 Continental Boulevard
El Segundo, California 90245

Defendants.

YOU ARE HEREBY SUMMONED, to answer the Complaint in this action and serve a copy of your Answer, or if the Complaint is not served with this Summons to serve a Notice of Appearance on the plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after the completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The trial of this action is to be held in the County of Erie.

Dated: March 8, 2017
Buffalo, New York

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

By: /s/ Richard A. Nicotra
Richard A. Nicotra, Esq.
Attorneys for Plaintiff
Office and Post Office Address
420 Franklin Street
Buffalo, New York 14202
Telephone: (716) 842-2200

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

ANNA MARANTO,
45 Ashworth Court
Amherst, New York 14228

Plaintiff,

COMPLAINT

v.

Index No. 2017-_____

FISHER-PRICE, INC.
636 Girard Avenue
East Aurora, New York 14052

MATTEL, INC.
333 Continental Boulevard
El Segundo, California 90245

Defendant.

Plaintiff, ANNA MARANTO, by her attorneys, Andrews, Bernstein, Maranto & Nicotra, PLLC for her complaint against the defendants, alleges as follows:

1. That upon information and belief, at all times hereinafter mentioned, plaintiff ANNA MARANTO was and is a resident of the Town of Amherst, County of Erie and State of New York, with a date of birth of April 30, 1996.
2. That upon information and belief and at all times hereinafter mentioned, defendant, FISHER-PRICE, INC. was and is a foreign business corporation duly authorized to transact business within the State of New York, and does transact business within the State of New York, with its principal place of business located in East Aurora, New York.
3. That upon information and belief and at all times hereinafter mentioned, defendant,

MATTEL, INC. was and is a foreign business corporation duly authorized to transact business within the State of New York, and does transact business within the State of New York.

4. That the Fisher-Price Grow-to-Pro Pogo Stick is a product purchased and utilized within the County of Erie and State of New York.

5. That upon information and belief and at all times hereinafter mentioned, defendants, FISHER-PRICE, INC. and/or MATTEL, INC., designed the Fisher-Price Grow-to-Pro Pogo Stick involved in the accident hereinafter described.

6. That upon information and belief and at all times hereinafter mentioned, defendants, FISHER-PRICE, INC. and/or MATTEL, INC., manufactured the Fisher-Price Grow-to-Pro Pogo Stick involved in the accident hereinafter described.

7. That upon information and belief and at all times hereinafter mentioned, defendants, FISHER-PRICE, INC. and/or MATTEL, INC., marketed the Fisher-Price Grow-to-Pro Pogo Stick involved in the accident hereinafter described.

8. That upon information and belief and at all times hereinafter mentioned, defendants, FISHER-PRICE, INC. and/or MATTEL, INC., distributed the Fisher-Price Grow-to-Pro Pogo Stick involved in the accident hereinafter described.

9. That upon information and belief and at all times hereinafter mentioned, on or about June 29, 2004, plaintiff, ANNA MARANTO, was utilizing the Fisher-Price Grow-to-Pro Pogo Stick in the County of Erie and State of New York.

10. That plaintiff, ANNA MARANTO, while in the process of utilizing the aforementioned Fisher-Price Grow-to-Pro Pogo Stick, was caused to suffer permanent and serious injuries.

11. That said incident occurred through no fault, neglect or carelessness on the part of

the plaintiff, ANNA MARANTO contributing thereto.

12. That said incident was caused by the negligence, carelessness, and recklessness of defendants, FISHER-PRICE, INC. and/or MATTEL, INC., in that they negligently, carelessly, and recklessly designed, manufactured, tested, marketed and sold the aforementioned Fisher-Price Grow-to-Pro Pogo Stick.

13. That as a result of the negligence, carelessness, and recklessness of defendants, FISHER-PRICE, INC. and/or MATTEL, INC., plaintiff, ANNA MARANTO, was permanently and seriously injured, all to her damage in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS A SECOND, SEPARATE AND DISTINCT CAUSE OF ACTION AGAINST
DEFENDANTS FISHER-PRICE, INC. AND MATTEL, INC.**

14. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "13" above as if set forth fully herein.

15. That the aforementioned Fisher-Price Grow-to-Pro Pogo Stick that caused plaintiff's injuries was defectively designed, manufactured, tested, marketed and sold by defendants, FISHER-PRICE, INC. and/or MATTEL, INC.

16. That at the time of plaintiff's accident, the aforementioned Fisher-Price Grow-to-Pro Pogo Stick was being used in a manner foreseeable by defendants, FISHER-PRICE, INC. and/or MATTEL, INC.

17. That because of the above-referenced defects, the aforementioned Fisher-Price Grow-to-Pro Pogo Stick that caused plaintiff's injuries was not fit for the purpose for which it was intended.

18. That the defendants, FISHER-PRICE, INC. and/or MATTEL, INC., are strictly

liable in tort to plaintiff.

19. That as a result of the negligence, carelessness, and recklessness of defendants, FISHER-PRICE, INC. and/or MATTEL, INC., plaintiff, ANNA MARANTO, was permanently and seriously injured, all to her damage in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS A THIRD, SEPARATE AND DISTINCT CAUSE OF ACTION AGAINST
DEFENDANTS FISHER-PRICE, INC. AND MATTEL, INC.**

20. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "19" above as if set forth fully herein.

21. That defendants, FISHER-PRICE, INC. and/or MATTEL, INC., made certain warranties, both express and implied, with respect to the aforementioned Fisher-Price Grow-to-Pro Pogo Stick that caused plaintiff's injuries.

22. That the warranties, both express and implied, breached by defendants, FISHER-PRICE, INC. and/or MATTEL, INC., caused plaintiff, ANNA MARANTO, to sustain permanent and serious injuries, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS A FOURTH, SEPARATE AND DISTINCT CAUSE OF ACTION AGAINST
DEFENDANTS FISHER-PRICE, INC. AND MATTEL, INC.**

23. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs "1" through "22" above as if set forth fully herein.

24. That the aforementioned Fisher-Price Grow-to-Pro Pogo Stick that caused plaintiff's injuries was inherently dangerous in that its use and operation placed plaintiff in

imminent danger.

25. That defendants, FISHER-PRICE, INC. and/or MATTEL, INC., knew or should have known that the aforementioned Fisher-Price Grow-to-Pro Pogo Stick was defective and unsafe and it was the duty of defendants to warn plaintiff of said dangers, and defendants failed to do so.

26. That the failure of defendants, FISHER-PRICE, INC. and/or MATTEL, INC., to warn plaintiff of the defects and dangers caused plaintiff, ANNA MARANTO, to sustain permanent and serious injuries, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, ANNA MARANTO, demands relief in judgment on her behalf and to receive damages on the allegations previously stated herein in an amount as may be just and proper based on the circumstances, together with the costs and disbursements of this action against the named defendants; and for such other and further relief as to this Court may seem just and proper.

Dated: March 8, 2017
Buffalo, New York

ANDREWS, BERNSTEIN, MARANTO & NICOTRA, PLLC

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